



## OFFICE OF GOVERNMENT ETHICS

### **Agency Information Collection Activities; Proposed Collection; Comment Request for Modified Qualified Trust Model Certificates and Model Trust Documents**

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Notice of request for agency and public comments.

**SUMMARY:** After this first round notice and public comment period, the U.S. Office of Government Ethics (OGE) intends to submit modified versions of the 12 OGE model certificates and model documents for qualified trusts to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995.

**DATES:** Written comments by the public and the agencies on this proposed extension are invited and must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Comments may be submitted to OGE by any of the following methods:

E-mail: [usoge@oge.gov](mailto:usoge@oge.gov) (Include reference to “OGE qualified trust model certificates and model trust documents paperwork comment” in the subject line of the message.)

Mail, Hand Delivery/Courier: Office of Government Ethics, 1201 New York Avenue, NW, Suite 500, Attention: Jennifer Matis, Associate Counsel, Washington, DC 20005-3917.

Instructions: Comments may be posted on OGE’s website, [www.oge.gov](http://www.oge.gov). Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Matis at the U.S. Office of Government Ethics; telephone: 202-482-9216; TTY: 800-877-8339; E-mail:

[jmatis@oge.gov](mailto:jmatis@oge.gov). Copies of the model documents as currently approved are available on OGE's website, [www.oge.gov](http://www.oge.gov). Electronic copies of these documents may also be obtained, without charge, by contacting Ms. Matis.

**SUPPLEMENTARY INFORMATION:**

Title: Executive Branch Qualified Trust Documents.

OMB Control Number: 3209-0007.

Type of Information Collection: Revision of a currently approved collection.

Type of Review Request: Regular.

Respondents: Any current or prospective executive branch officials who seek to establish or have established a qualified blind or diversified trust under the Ethics in Government Act of 1978 as a means to avoid conflicts of interest while in office.

Estimated Average Annual Number of Respondents: 2.

Total Estimated Time per Response: 20 minutes to 100 hours (see table below for detailed explanation).

Estimated Average Total Annual Burden: 120 hours.

Abstract: OGE is the supervising ethics office for the executive branch of the Federal Government under the Ethics in Government Act of 1978 (EIGA). Accordingly, OGE administers the qualified trust program for the executive branch. Presidential nominees to executive branch positions subject to Senate confirmation and any other executive branch officials may seek OGE approval for EIGA-qualified blind or diversified trusts as one means to avoid conflicts of interest. The requirements for EIGA-qualified blind and diversified trusts are set forth in section 102(f) of the Ethics in Government Act, 5 U.S.C. app. § 102(f), and OGE's implementing financial disclosure regulations at subpart D of 5 CFR part 2634.

In order to ensure that all applicable requirements are met, OGE is the sponsoring agency for 12 model certificates and model trust documents for qualified blind and

diversified trusts. See 5 CFR 2634.402(e)(3), 2634.402(f)(3), 2634.404(e) through (g), 2634.405(d)(2), 2634.407(a); 2634.408(b)(1) through (3), 2634.408(d)(4), 2634.409, and 2634.414. The various model certificates and model trust documents are used by settlors, trustees, and other fiduciaries in establishing and administering these qualified trusts. OGE plans to submit these model certificates and model trust documents (described in detail in the table below) to OMB for renewed approval pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

The 12 model documents, along with their burden estimates, are as follows:

<b>Model Qualified Trust Documents</b>	<b>Estimated Burden</b>
(A) Blind Trust Communications (Expedited Procedure for Securing Approval of Proposed Communications)	20 minutes per communication
(B) Model Qualified Blind Trust Provisions	100 hours per model
(C) Model Qualified Diversified Trust Provisions	100 hours per model
(D) Model Qualified Diversified Trust Provisions (For Use in the Case of Multiple Fiduciaries)	100 hours per model
(E) Model Qualified Blind Trust Provisions (For Use in the Case of an Irrevocable Pre-Existing Trust)	100 hours per model
(F) Hybrid Version of the Model Qualified Diversified Trust Provisions	100 hours per model
(G) Model Qualified Blind Trust Provisions (For Use in the Case of Multiple Fiduciaries)	100 hours per model
(H) Model Qualified Diversified Trust Provisions (For Use in the Case of an Irrevocable Pre-Existing Trust)	100 hours per model
(I) Model Confidentiality Agreement Provisions (For Use in the Case of a Privately Owned Business)	2 hours per agreement
(J) Model Confidentiality Agreement Provisions (For Use in the Case of Investment Management Activities)	2 hours per agreement
<b>Model Trust Certificates</b>	<b>Estimated Burden</b>
(K) Certificate of Independence	20 minutes per certificate

(L) Certificate of Compliance	20 minutes per certificate
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These estimates are based on the amount of time imposed on professional trust administrators or private representatives. OGE notes that only one set of the various model trust provisions (items (B) through (H)) will be prepared for a single qualified trust, and only prior to the establishment of that qualified trust. Likewise, other model documents listed above are used in connection with establishing the qualified trust (items (I), (J), and (K)). The remaining model documents are used after the trust's creation (items (A) and (L)). Accordingly, OGE notes that the majority of the time burden for any given trust is imposed during the creation of the trust.

At the present time, there are no active qualified trusts in the executive branch. However, OGE anticipates possible limited use of these model documents during the forthcoming three-year period. OGE estimates that there may be an average of one individual per year who initiates a qualified trust using these model documents during calendar years 2023 through 2025. OGE has accordingly estimated the average annual number of respondents to be two, which represents one respondent establishing a qualified trust and one respondent maintaining a previously established qualified trust. Based on the above, OGE estimates an average annual time burden during the next three years of 120 hours. Using an estimated rate of \$300 per hour for the services of a professional trust administrator or private representative, the estimated annual cost burden is \$36,000.

Under OMB's implementing regulations for the Paperwork Reduction Act, any recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons. See 5 CFR 1320.3(c)(4)(i). Therefore, OGE intends to submit, after this first round notice and comment period, all 12 qualified trust model certificates and model documents described above (all of which

are included under OMB paperwork control number 3209-0007) for a three-year extension of approval. At that time, OGE will publish a second notice in the FEDERAL REGISTER to inform the public and the agencies.

OGE is committed to making ethics records publicly available to the extent possible. The communications documents and the confidentiality agreements (items (A), (I) and (J) on the table above), once completed, will not be available to the public because they contain sensitive, confidential information. The other completed certificates and documents (except for any trust provisions that relate to the testamentary disposition of trust assets) are retained and made publicly available based upon a proper request under section 105 of the EIGA until the periods for retention of all other reports (usually the OGE Form 278 Public Financial Disclosure Reports) of the individual establishing the trust have lapsed (generally six years after the filing of the last report). See 5 U.S.C. app. 105; 5 CFR 2634.603(g)(2). The information collected with these model trust certificates and model trust documents is part of the OGE/GOVT-1 Governmentwide Privacy Act system of records.

In seeking an extension of approval, OGE is proposing several nonsubstantive changes to the 12 qualified trust certificates and model documents.

First, OGE proposes updating the dates in Document A (Blind Trust Communications) to make them more contemporary.

Second, OGE proposes replacing “OGE” and “the Office” with “the U.S. Office of Government Ethics” to make references to the agency consistent with that of the actual model trust language.

Third, OGE proposes replacing references to the Ethics in Government Act of 1978 as “the Ethics Act” with “the Act” in order to maintain consistency.

Fourth, OGE proposes fixing a typo by removing the period (.) following the “NW” in OGE’s address.

Request for Comments: Agency and public comment is invited specifically on the need for and practical utility of this information collection, on the accuracy of OGE's burden estimate, on the enhancement of quality, utility, and clarity of the information collected, and on minimizing the burden to the public. Comments received in response to this notice will be summarized for, and may be included with, the OGE request for extension of OMB approval. The comments will also become a matter of public record.

Specifically, OGE seeks public comment on the following:

- Do the model qualified blind trusts provide sufficient direction to establish a trust under the Qualified Trust Program? If not, what provisions could be clearer or what language should be changed?
- Do the model qualified diversified trusts provide sufficient direction to establish a trust under the Qualified Trust Program? If not, what provisions could be clearer or what language should be changed?
- Do the Additional Trust Documents provide sufficient information for individuals to comply with the logistical requirements (e.g., procedure for securing approval of proposed communications) of the Qualified Trust Program? If not, what provisions could be clearer or what language should be changed?

Approved: July 19, 2022.

**Emory Rounds,**

*Director, Office of Government Ethics.*

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